

**MINUTES
OF THE
REGULAR MEETING OF THE
ELECTIONS COMMISSION**

MARCH 1, 2007

10:00 a.m.

**LEIOPAPA A KAMEHAMEHA BUILDING, ROOM 203
235 SOUTH BERETANIA STREET
HONOLULU, HAWAII 96813**

Commissioners in Attendance:

Mr. John Chan
Mr. Harold Masumoto
Ms. Zale Okazaki
Ms. Susan Russell, Acting Chair
Ms. Donna Soares
Mr. Richard Swift
Mr. Daryl Yamamoto

Technical Support Staff in Attendance:

Mr. Mark Bennett, Attorney General
Mr. Steven Chang, Office of Elections
Ms. Robyn Chun, Department of the Attorney General
Ms. Ciress Cuevo, Office of Elections
Ms. Judy Gold, Office of Elections
Mr. Scott Nago, Office of Elections
Mr. Rex Quidilla, Office of Elections
Ms. Carolyn Roldan, Office of Elections
Mr. David Rosenbrock, Office of Elections
Mr. Russell Suzuki, Department of the Attorney General

Guests in Attendance:

Mr. Sam Aiona, Hawaii Republican Party
Ms. Julia Allen
Ms. Anelle Armalar, Democratic Party of Hawaii – Oahu
Ms. Jean Aoki, League of Women Voters
Mr. Richard Borecca, Honolulu Star Bulletin
Mr. Jeff Kuwada, Office of the Maui County Clerk
Ms. JoAnn Makuoka, League of Women Voters
Ms. Suzanne Meisenzahl, League of Women Voters
Ms. Pat Nakamoto, Office of the Hawaii County Clerk
Mr. Peter Nakamura, County Clerk of Kauai

Ms. Treena Shapiro, Honolulu Advertiser
Mr. Samuel Slom, State Senate
Ms. Eliza Talbot, Hawaii Republican Party
Ms. Malia Zimmerman, Hawaii Reporter

PROCEEDINGS

I. Call to Order

The meeting was called to order by acting chair, Ms. Susan Russell at 10:00 a.m. on March 1, 2007 at the Leiopapa A Kamehameha Building in room 203.

Chair Russell excused the absences of Mr. Harold Nelson and Mr. Harold Masumoto.

II. Approval of Minutes of Meeting of February 8, 2007

Ms. Donna Soares moved to approve the minutes of the meeting of February 8, 2007. Mr. Daryl Yamamoto seconded, and the motion carried unanimously.

III. Public Testimony (All interested persons may present oral and/or written testimony on any agenda item. Please check-in with staff and sign the sign-in sheet so that your name can be called.)

Chair Russell acknowledged receipt of Mr. Dwayne Yoshina's letter withdrawing his petition to seek reappointment as the Chief Election Officer. She asked those that signed the public testimony sign-in sheet to present their testimony.

Mr. Masumoto arrived during the discussion of this item.

Ms. Anelle Armalar, Chair of the O'ahu County Committee, Democratic Party of Hawaii, provided oral testimony in support of Mr. Yoshina to serve as the interim Chief Election Officer until the Elections Commission can conduct a nationwide search for a permanent Chief Election Officer. She also noted that the Oahu County Committee will be presenting Mr. Yoshina a certificate to acknowledge his 25 years of service to the State of Hawaii.

Ms. Jean Aoki, League of Women Voters, provided oral testimony expressing her concerns regarding the transparency and the openness of the Elections Commission meetings. Ms. Aoki read a Honolulu Weekly article regarding the Commission's decision on the Chief Election Officer. She questioned whether Commission members had discussions that lead

to a decision prior to this meeting and whether those discussions were in compliance with the Sunshine Law. Ms. Aoki also stated that although the Commission meeting met the public notice requirements of State law, more effort is needed to inform the public of Elections Commission meetings. She recommended that information be provided on the Office of Elections' website. She also questioned the Commission regarding the unseated ninth member. Lastly, Ms. Aoki stated that the League of Women Voters want a nonpartisan Chief Election Officer to serve the State of Hawaii.

Mr. Peter Nakamura, County Clerk of Kauai provided oral testimony in support of Mr. Dwayne Yoshina's reappointment. He stated that Mr. Yoshina did not ask him to attend this meeting, but rather he wanted to attend on his own accord. He also noted that his elections division staff asked him to testify in support of Mr. Yoshina's reappointment. Mr. Nakamura shared his county's positive experience in working with Mr. Yoshina. He also noted that the administration of elections is a shared responsibility between the County Clerks and the Chief Election Officer.

Mr. Jeffrey Kuwada, Deputy County Clerk of Maui provided oral testimony in support of Mr. Yoshina's reappointment. In his experience working with Mr. Yoshina, he noted that Mr. Yoshina demonstrated exemplary leadership skills. Mr. Kuwada urged the Commission to consider Mr. Yoshina's reappointment. He stated that if Mr. Yoshina could not be reappointed, then the Commission should appoint a qualified applicant.

Chair Russell noted that the Commission was in receipt of written testimonies sent to the Office of Elections.

The following individuals submitted written testimony:

1. County of Hawaii Elections Division Staff: Shyla Ayau, Ranee Mangauil, Cori Saiki, Glen Shikuma, and Sonya Toasaka-Kelii
2. Ms. Susan Irvine
3. Ms. Constance Kiriu
4. Office of Elections Staff: Steve Chang, Ciress Cuevo, Judy Gold, John Klaneski, Willette Naauao, Scott Nago, Kim Okazaki, Rex Quidilla, Carolyn Roldan, David Rosenbrock, Lori Tomczyk, Rod Ueno, Charles Wong, and Robynn Yokooji
5. Ms. Patricia Nakamoto, Elections Program Administrator, County of Hawaii
6. Mr. Ernesto Pasion, Deputy County Clerk of Kauai
7. Mr. Dale Takiguchi
8. Ms. Geri Lynn Unciano, Elections Clerk, County of Kauai
9. Mr. Lyndon Yoshioka, Elections Administrator, County of Kauai

Chair Russell agreed with Ms. Aoki that more public notice of the Elections Commission meetings is needed and that this information should be available on the Office of Elections' website. In response to Ms. Aoki's question regarding the Elections Commission's compliance with the Sunshine Law, Chair Russell explained that the Commission did not meet to discuss any matters pertaining to the decision on the Chief Election Officer prior to this meeting. She also stated that the Commission was notified of the expiration of Mr. Yoshina's term on January 24, 2007.

There was a motion to amend the agenda to skip items four and five because these items no longer applied.

Mr. Russell Suzuki, Deputy Attorney General opined that items four and five may be skipped without amendment to the agenda.

- IV. Executive Session: To consider personnel matters relating to the evaluation of the Chief Election Officer. (HRS § 92-5(a) (2)) (If the individual concerned requests an open meeting, and open meeting shall be held.)

This item was not taken up pursuant to discussion in item three.

- V. Reconvene in Open Meeting

This item was not taken up pursuant to discussion in item three.

- VI. Executive Session: To consult with legal counsel pursuant to (HRS § 92-5(a) (4) on questions and issues pertaining to the Commission's power, duties, privileges, immunities and liabilities with respect to the reappointment of the Chief Election Officer; decision on whether to authorize the Chief Election Officer to holdover until a successor is appointed if the Chief Election Officer is not reappointed; decision on appointing a temporary or acting Chief Election Officer if the Chief Election Officer is not reappointed and not authorized to hold office until a successor is appointed; and other related matters.

Pursuant to Hawaii Revised Statutes § 92-5(a)(4), the Commission resolved to executive session at 10:29 a.m. The executive session ended at 12:40 p.m., after which the Commission recessed.

- VII. Reconvene in Open Meeting

Chair Russell reconvened the meeting at 12:47 p.m.

- VIII. Action Items: Decision with respect to the reappointment of the Chief Election Officer; decision on whether to authorize the Chief Election

Officer to holdover until a successor is appointed if the Chief Election Officer is not reappointed; decision on appointing a temporary or acting Chief Election Officer if the Chief Election Officer is not reappointed and not authorized to hold office until successor is appointed; and other related matters.

Chair Russell stated that the Commission will conduct voice votes on the action items. She also noted that five affirmative votes are required to pass a motion.

Mr. Masumoto moved for the Commission to appoint Mr. Yoshina as the interim Chief Election Officer until a successor is appointed. Mr. Yamamoto seconded. The motion failed, 3-4 (No: Chair Russell, Ms. Soares, and Mr. Swift; Yes: Mr. Chan, Mr. Masumoto, Ms. Okazaki, and Mr. Yamamoto).

Mr. Richard Swift moved for the Commission to appoint Mr. Rex Quidilla as the interim Chief Election Officer. Ms. Soares seconded. The motion failed, 3-4 (No: Mr. Masumoto, Ms. Okazaki, and Mr. Yamamoto; Yes: Mr. Chan, Chair Russell, Ms. Soares, and Mr. Swift).

Mr. Masumoto moved for the Commission to appoint Mr. Quidilla as the interim Chief Election Officer until the next meeting and that the Commission to work with a fact finding committee on the process to appoint the next interim Chief Election Officer. Ms. Soares seconded. The motion passed, 2-5 (No: Mr. Yamamoto and Ms. Okazaki; Yes: Mr. Chan, Mr. Masumoto, Chair Russell, Ms. Soares, and Mr. Swift).

The Attorney General advised the Commission to form a fact finding committee. The Commission decided that the committee will be comprised of one Elections Commission member, one representative of the League of Women Voters, and one representative from the respective Offices of the County Clerks.

Mr. Yamamoto was recommended to serve as the Commission's representative. He declined. Commissioners Soares and Okazaki volunteered to serve along with Commissioner Russell. Ms. Aoki will follow up with the League of Women Voters' President to name its representative to serve on the committee. The Commission noted that it preferred the League of Women Voters' representative be a resident of Honolulu to facilitate attendance at meetings. Chair Russell stated that she will contact with the County Clerks to seek a representative from their offices to serve on the fact finding committee.

Mr. Swift moved for the fact finding committee to establish the criteria and requirements for selecting both the interim and permanent Chief Election Officer. Mr. Masumoto seconded, and the motion carried unanimously.

IX. Biennial Report to the Legislature

Chair Russell discussed the report to be submitted the legislature. She stated that the Commission could work with the Office of Elections staff to submit a late report.

X. Discussion of Proposed Legislation Including Funding the Elections Commission

Chair Russell asked the Office of Elections for an update on legislation.

Mr. Scott Nago and Mr. Quidilla provided a legislation report to the Commission.

XI. Old Business

Ms. Soares inquired of the status of the rules for the Commission.

In response to Ms. Soares, Chair Russell stated that the rules have been submitted to Governor Linda Lingle's office. She also noted that the minor typographical errors can be amended during the public hearings process.

XII. New Business

Mr. Masumoto moved for the Commission to amend the agenda to discuss the salary wage of the Chief Election Officer. Mr. Yamamoto seconded, and the motion carried unanimously

Mr. Masumoto moved for the Chief Election Officer to be paid a salary not to exceed eighty-seven percent of the director of human resources development (pursuant to HRS 11-1.6(e)). Mr. Yamamoto seconded. The motion carried unanimously.

The Commission recessed at 1:15 p.m., so Mr. Suzuki could provide the Commission with an answer to its inquiry regarding the salary of the director of human resources development.

The meeting reconvened at 1:43 p.m.

XIII. Correspondence

There was no correspondence for discussion.

XIV. Adjournment (Announcement of Next Meeting)

There being no further business to discuss, Chair Russell adjourned the meeting at 1:43 p.m. The next meeting of the Commission is scheduled for May 10, 2007.

Respectfully submitted,
Rex M. Quidilla
Elections Commission Secretary